



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

DOVER TEACHERS' UNION :
LOCAL 3536, AFT :

Complainant :

v. :

DOVER SCHOOL COMMITTEE :
AND WILLIAM H. MCCANN, JR., :
CHIEF NEGOTIATOR :

Respondent :

CASE NO. T-0316:1

DECISION NO. 83-18

APPEARANCES

Representing Dover Teachers' Union
Theodore G. Wells, Jr., AFT

Representing Dover School Committee
Bradley F. Kidder, Esq.

Also in Attendance

Beverly Conway
Thomas J. Conway
Kathryn P. Forbes
Bernard T. Ryder
William H. McCann, Jr.

BACKGROUND

In an unfair labor practice complaint filed with the PELRB on February 28, 1983, the Dover Teachers' Union (union) charged that the Dover School Committee (committee) and William H. McCann, Jr., as a member of the Dover School Committee and Chief Negotiator for the committee did violate RSA 273-A:5, I (a), (e) and (h).

The union charged that Mr. McCann, as negotiator, knew the ground rules of the negotiations and did deliberately violate these ground rules in statements to the press on February 16, 1983, published in Foster's Daily Democrat (Dover, N.H.) on February 17, 1983, and that this action violates: RSA 273-A:5, I (a), in interfering with the union's right to represent employees; RSA 273-A:5, I (c) in that statements to the press constitute a refusal to negotiate in good faith; RSA 273-A:5, I (h) in that the current contract (Art. XIII, Sect. 2) requires the union and committee to negotiate a successor agreement and the violation of the ground rules is a violation of this requirement.

The Dover School Committee denies that there were violations of RSA 273-A and point out that (1) negotiations were completed, including a mediation achieved agreement on January 24, 1983, prior to the statements to the press; (2) Mr. Conway had notified the teachers and others and this broke the agreement on February 11, 1983 and, (3)

the parties mutually agreed to an impasse on November 29, 1982, therefore, the ground rules were not in effect after that date.

A hearing was held at the Public Employee Labor Relations Board's office in Concord, N.H. on April 12, 1983.

FINDINGS OF FACT

Ground rules for negotiations had been agreed to on September 23, 1982 and did contain, inter alia, provisions for:

- (1) closed negotiating sessions with no transcripts or recordings;
- (2) the confidentiality of the discussions and the agreement not to speak to the press (on or off the record) "relative to the negotiations";
- (3) the recognition that should negotiations not be concluded by December 3, 1982, RSA 273-A and PELRB rules would require an impasse be declared on that date.

An impasse was declared on November 29, 1982 and mediating sessions were held subsequently, leading to a "tentative agreement" on January 14, 1983 (this agreement was subsequently rejected by the union and the issues were submitted to fact-finding)

Testimony was given by union officials that in prior negotiations (1981), the ground rules were adhered to throughout impasse and fact-finding. Testimony revealed that a union official (Conway) had discussed the general status of negotiations with a reporter on February 15 and 16 of 1982, and had given the reporter some information on the fact-finders report. Mr. McCann subsequently spoke to the reporter who had informed him of Mr. Conway's conversation. Counsel for the committee argued that the ground rules expired at the declaration of impasse and counsel for the union argued that previous experience should govern and the ground rules should be assumed to remain in force throughout.

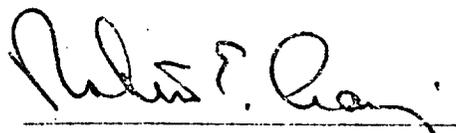
DECISION AND ORDER

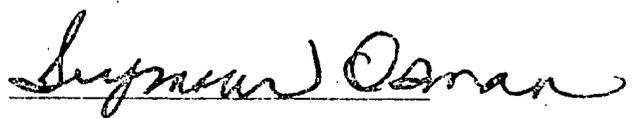
The lack of any specific agreement as to the time frame of the ground rules for negotiation leaves us (and others) to doubt whether past practice can govern since each set of negotiations will be preceded by specific ground rules for that negotiation, regardless of previous ground rules agreed to. Additional arguments indicate that there are times when either side strongly wishes the freedom to speak to the press or public after an impasse has occurred.

With the above in mind, the PELRB finds that lacking a specific agreement to extend the ground rules beyond impasse, those ground rules will expire with impasse. Should the parties to negotiation wish otherwise they are free to agree on rules that suit them and their situation.

The PELRB declines to find an unfair labor practice against Mr. McCann and the School Committee and orders the complaint dismissed.

Signed this 24th day of May 1983.


ROBERT E. CRAIG, Chairman


SEYMOUR OSMAN, Board Member